

Coming to America: A Comprehensive Overview of Visas for Foreign Nationals Attending U.S. Trade Shows

By Michelle Bruno

The September 11 terrorist attacks have made it more challenging for foreign nationals to obtain visas for entry into the U.S. More scrutiny than ever before is being placed on visa applicants of all types and the workload of consular officers charged with approving visa applications has increased substantially. Still, U.S. trade show organizers who depend on foreign buyers and exhibitors to support their increasingly global events can take important measures to facilitate the process for their foreign clients, not the least of which is supplying them with up-to-date information and documentation to support their application.

The Process for Obtaining a Visa and Entry into the U.S.

“A visa,” as described by the U.S. State Department, “is an endorsement made in a passport by the proper authorities denoting that it has been examined and that the bearer may proceed to a country’s port of entry.” This definition, however, can be a little confusing. For example, a visa does not entitle its holder to enter the United States. It only permits the visa-holder to travel to a U.S. border or point of entry, at which point an officer of the Immigration and Naturalization Service (INS) has the sole authority to permit entrance into the country.

It is recommended that visas be obtained in the applicant’s country of residence although it is possible to obtain a visa while outside of the applicant’s home country. The application is made to a U.S. Consular office or section of the U.S. Embassy.

There are a number of items required of all visa applicants including the following:

- Payment of a nonrefundable application fee of US \$100. Additionally, payment of a visa issuance fee, if applicable.
- Nonimmigrant Visa Application, Form DS-156, completed and signed. Blank forms are available free of charge at all U.S. consular offices, online at <http://travel.state.gov/DS-0156.pdf> or by auto fax at 202-647-3000.
- Valid passport for travel to the United States with a validity date at least six months beyond the applicant's intended period of stay in the United States. If more than one person is included in the passport, each person desiring a visa must make an application.
- One photograph, 2 inches square (roughly 50 mm square) for each applicant, showing full face, without head covering, against a white or off-white background, stapled or glued to the application, DS-156 in the designated space.
- Supplemental Nonimmigrant Visa Application, Form DS-157 must be submitted, completed by all male applicants between the ages of 16 and 45, regardless of nationality. All applicants from the countries on the Department of State list of countries that sponsor terrorism must also complete the DS-157. A consular officer can request the form from anyone.
- Support materials indicating the purpose of the visit, that they plan to remain in the U.S. only for a specific, limited period of time and that they have a residence outside the U.S. as well as family, business interests or investments that will insure their return to their country of origin at the conclusion of the visit.

While this information is excerpted from the Internet site above, please note that the Department of State's recommended first source of up-to-date visa information is their Internet site at <http://www.travel.state.gov>. Another useful website is <http://www.UnitedStatesVisas.gov>.

Upon arrival to a U.S. point of entry, visitors will be required to pass through U.S. Immigration where an officer of the Department of Homeland Security will review the visitor's visa and make a determination on the length of stay. Business travelers entering the USA on a B-1 or other business visitor visa, whether single entry or multiple entry, should share scheduled plans for their stay in the USA with the immigration officer or risk that the immigration official will arbitrarily stamp their entry documentation with a truncated time period. If the visitor shows ticketing and notes that the purpose of the visit is to cover multiple site visits, (trade show plus business appointments, etc.) they should discuss the itinerary with the immigration officer and request permission to stay in the USA long enough to complete their plans.

A Department of Homeland Security official can deny entry to an individual even if they have obtained a visa. They can determine and define an approved period for their stay in the USA or they can limit their permission to a period less than their planned itinerary. If a visitor "overstays" the permitted period of visit, they risk losing permission to visit the USA in the future, or a denial of their visa application on a subsequent planned visit.

How Organizers can Help Foreign Visitors

Since U.S. law places the burden on the visa applicant to show that he/she is not an intending immigrant and that the stated purpose of their trip is legitimate, visitors to U.S. trade shows must demonstrate that intention with appropriate documentation. For example, they must show that the purpose of their trip is to attend and/or exhibit at a trade show. They should have in their possession a personalized letter of invitation from the event organizer to attend the show.

The letter of invitation should be mailed (or e-mailed as an attachment) on company letterhead to the specific invited individual. Show organizers who are issuing letters of invitations to known foreign citizens and those who have participated in shows previously may wish to vary the invitation letters to note, "we would like to thank you for your previous participation in our show, and invite you to return to the upcoming event" or comparable content denoting that the invitee is known to the show as a previous visitor. Such content would most likely be viewed by the Consuls as at least some verification of the visitor's legitimate business interest in the visit and evidence that the visitor has previously visited the U.S. and returned as authorized by their previous visas.

A separate letter of "support" from the organizer can also be helpful to the invitee. This letter should also be on the organizer's company or show letterhead and be addressed to the consular officer in the country where the application is being made. A list of consular offices is available online at http://travel.state.gov/visa_services.html. It should contain such information as a reiteration that the individual is in fact an invited guest of the show, the visitor's affiliation with the event (invited buyer, exhibitor, speaker, employee, etc.), their history of attendance (i.e. they have previously attended the show in the years 2000 and 2001, for example) and other information if known and appropriate. It is also helpful to mention why the invitee's presence might help stimulate U.S. exports (such as he is chief of widget purchasing for his firm). Letters should also emphasize that the show is a date certain event.

Endorsing a specific individual, however, can be potentially risky for an organizer. Care must be taken by event producers to provide factual information such as the number of years an individual has attended the show, the visitor's activities at previous events and the fact that the organizer knows them. Letters of support should fall short of endorsing or recommending the individual for a visa and should not pledge any type of financial support unless (as in the case of speaker honorariums or payment of expenses) the organizer is, in fact, providing some type of remuneration or reimbursement. Organizers must maintain databases that record the historical "behavior" of foreign visitors, i.e. whether or not they attended the show in a particular year and their purpose for attending (buyer, exhibitor, speaker, guest, etc.).

Although it provides no guarantee, show collateral materials can offer a visa applicant additional support. For example, an exhibitor prospectus that lists the exhibiting company's name (the visa applicant's employer or U.S. representative), a confirmation of the buyer's registration at the event or a listing of the visitor as a speaker in the event program can be useful.

The most compelling evidence for consular and immigration officials to consider, however, is any demonstration of the visa applicant's adherence to previous visa requirements. In other words, frequent visitors should show that they have entered and departed the U.S. previously within the time limits prescribed. Also, since the final decision to allow entrance into the U.S. lies with the Immigration and Naturalization Officer at the point of entry, copies of all show materials (invitations, letters of support, show collateral, etc.) should accompany the visitor as further verification of the purpose of his/her visit.

Show organizers who have been selected for International Buyer Program (IBP) status by the U.S. Department of Commerce may wish to send their lists of past international attendees to the Commercial Sections of the appropriate overseas posts to facilitate the verification of visa applicant's assertions. To this end, organizers who do not have post addresses may obtain them from the International Buyer Program project officer at the Department of Commerce.

Information on the show web site should fully address the visa issues and provide resources and information to enhance the foreign attendee's understanding of the process. Organizers can also take a proactive posture by advising Congressional representatives of their concerns about delays and the potentially negative impact on U.S. exports if the situation is not monitored closely.

Who is required to obtain a Visa?

Not every foreign visitor is required to obtain a visa to enter the U.S. According to the U.S. State Department's web site, "travelers coming to the U.S. for tourism or business for 90 days or less from qualified countries may be eligible to visit the U.S. without a visa. Currently, 28 countries participate in the *Visa Waiver Program*: Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. Visitors entering on the Visa Waiver Program cannot work or study while in the U.S. and cannot stay longer than 90 days or change their status to another category."

In fact, the overwhelming majority of countries outside the United States will find that the process and rate of issuance of visas remains unchanged from pre-September 11, 2001 levels. Less than thirty countries appear to be impacted by new requirements that have extended the

period of applications, appointments for interviews, review of applications and the time required for the issuance of new visas.

It is important to note that the U.S. Government has no obligation to grant a visa to any foreign citizen. All applicants are considered on their individual merits and regardless of the purpose of the visit, each applicant must qualify for his or her own right to obtain a visa. Obviously, there are categories of ineligibility that automatically raise red flags such as if the applicant is a known terrorist, convicted felon or poses a health or security risk.

Changes Since 9/11

Many international businesspersons apply for, and receive, multiple-entry visas. The period of this type of visa is determined in part by the reciprocity agreement between the United States and the specific country, but ranges from less than a year to as much as ten years. Multiple-entry visas are still valid for multiple visits. The process may be lengthier and a more extensive review of the applicant's documentation may be required for first time visitor visas to the United States than for those previously issued visas.

Before a consular officer may issue a visa, he or she must run the name of the applicant through a database that contains the names of persons ineligible to travel to the U.S. under the provisions of the Immigration and Nationality Act. Consular Officers are prohibited from issuing a visa to anyone whose name appears in the database unless they take appropriate action that permits the visa issuance.

Consuls are now required to interview more applicants. Individuals must present themselves for interviews as well as complete and submit documentation on themselves and their reason for wanting to visit the United States. Since 9/11 an extensive review process has been put in place which has created delays in the process for some applicants, and in some areas requires that an application goes through a much more rigorous review, including checks by U.S. Government agencies in the USA.

Consular Officers have always used their discretion to determine whether an applicant will require a personal interview. However, Section 306 of the Enhanced Border Security and Visa Reform Act of 2002 (EBSVRA) requires interviews of aliens from countries designated as state sponsors of terrorism. Seven countries are now designated as such. They are North Korea, Cuba, Syria, Sudan, Iran, Iraq, and Libya. All applicants from state sponsors of terrorism age 16 and over, irrespective of gender, must without exception complete form DS-157, in addition to form DS-156, and must appear for an interview with a consular officer.

While the number of visa applications has decreased overall since September 11, the workload in the consular offices and embassies of countries where fraud and other risks are higher has increased with no commensurate increase in staffing. Despite these challenges the turnaround time for most visa applications is within 30 days but in some cases may take considerably longer. Exhibition organizers must take this extended lead-time into consideration when issuing invitations and executing their foreign buyer promotional campaigns. Beginning such efforts at least two months earlier is recommended as well as stressing to visitors the need to apply early in order to avoid delays in processing.

Getting Your Visa

Since September 11, visa applications are now subject to a greater degree of scrutiny than in the past. Applicants affected by these procedures are informed of the need for interview and additional screening at the time they submit their applications. The timeframes for visa processing today are difficult to predict with accuracy, and can vary significantly from country to country, and by Embassy Consular section worldwide, based on a combination of factors. While many visas may be obtained in 30 days, many also take considerably longer. For national security reasons, please understand these visa-processing procedures are mandatory, cannot be expedited, and cannot be waived by the Consular Section.

We cannot over-emphasize that advance planning by foreign travelers is critical, including these planning steps:

- As soon as travel to the United States is contemplated, foreign travelers should determine if a visa is needed. For visa waiver countries, citizens meeting the visa waiver criteria will not need a visa.
- After identifying that a visa is needed, travelers should contact the Embassy Consular Section to determine visa processing timeframes. We recommend contacting the Consular Section via Internet at www.travel.state.gov or the Embassy Internet address directly. Look for posted timeframes on the Internet or call the Consular Section to hear recorded information about visa processing timeframes.
- Based on processing timeframes, it is critical that travelers submit the Nonimmigrant Visa Application, Form DS-156 and all required documentation promptly.

The Department of State's recommended first source of up-to-date visa information is their Internet site at: <http://www.travel.state.gov>

Trade Show Organizers - Communications

The Visa Services office at the U.S. Department of State can post, on their internal intranet site, announcement about your upcoming trade show to be held in the United States. This announcement is for conference and event communication purposes only, to Embassy Consular Sections worldwide. Contact Karla Gentile at Visa Services with your announcement request. She can be reached at email at: Gentilekc@state.gov. It is suggested that announcements be made well in advance of the trade show (3-6 months, or more in advance, is suggested)

Please note that Embassy Consular Sections overseas have sole responsibility for issuance of visas, and they generally are the first point of contact for visa processing status. Visa Services at the Department of State is not able to expedite the processing of visa applications.

Contact for visa issues and questions:

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Contact for International Buyer Program related questions:

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